

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 647 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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CHATURBHAI M PARMAR

Versus

DIVISIONAL CONTROLLER

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Appearance:

MR HK RATHOD for Petitioner

MR HARDIK C RAWAL for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/03/98

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioner was dismissed from the services of the Corporation on an alleged misconduct of misappropriation of amount of Rs.40/-. The petitioner raised an industrial dispute which has been referred to the Labour Court, Ahmedabad. In the Labour Court, the petitioner has accepted the inquiry conducted against him

to be fair and legal. The Labour Court, as far as the inquiry is concerned, accepted it to be legal and valid, but it has interfered in the matter and recorded the finding that it is not a case of misappropriation of the amount of the Corporation but at the most it can be said to be a case of attempt made by the petitioner to misappropriate the amount of the Corporation. Taking this point into consideration, the Labour Court has ordered for reinstatement of the petitioner. The Corporation has not challenged that part of the award of the Labour Court before this Court. The Labour Court has not granted backwages to the petitioner and feeling aggrieved of that part of the award, the petitioner has filed this special civil application.

3. The contention of the learned counsel for the petitioner is that once the Labour Court has not accepted that the petitioner has committed any misconduct then the consequential order would have been of reinstatement with full backwages.

4. The learned counsel for the respondent, on the other hand, contended that it is a discretion of the Labour Court to grant backwages to the workman or not. In the present case, after recording cogent reasons, the Labour Court has not awarded backwages to the petitioner and as such this Court may not interfere with the award.

5. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

6. In this case, the reason which has been given by the Labour court to hold the petitioner not guilty of misconduct may not be legal and correct but as the respondent-Corporation has not challenged that part of award, I do not consider it to be appropriate to go on the validity of the award to the extent it relates to the grant of reinstatement to the petitioner otherwise I have my own reservation so far as that part of the award is concerned.

7. The learned counsel for the respondent is correct to contend that in this case the Labour Court has given cogent and justified reasons to deny the backwages to the workman concerned. In the present case, after reading the award, I am satisfied that the Labour Court has given cogent and justified reasons to deny the backwages to the petitioner. The learned counsel for the petitioner is unable to satisfy this Court how this award suffers from any illegality or there is an error apparent on the face of the award, which calls for interference of this Court

sitting under Article 227 of the Constitution of India.

8. In the result, this special civil application fails and the same is dismissed. Rule discharged.

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zgs/-